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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/664,819	09/17/2003	Andrzej Strak	TRSE121566	3439
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CHRISTENSEN, O'CONNOR, JOHNSON, KINDNESS, PLLC			PADEN, CAROLYN A	
1420 FIFTH A SUITE 2800	420 FIFTH AVENUE JUITE 2800		ART UNIT	PAPER NUMBER
SEATTLE, WA 98101-2347			1761	
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Please find below and/or attached an Office communication concerning this application or proceeding.

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION. - Extensions of time may be available under the provisions of 37 CFR 1,138(a). In ne event, however, may a reply be timely filed after SIX (8) MONTHS from the mailing date of this communication. - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any semed patent term adjustment. See 37 CFR 1.704(b). Status 1) Responsive to communication(s) filed on 18 May 2006. 2a) This action is FINAL. 2b) This action is non-final. 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11, 453 O.G. 213. Disposition of Claims 4) Claim(s) 1-37 is/are pending in the application. 4a) Of the above claim(s) is/are withdrawn from consideration. 5) Claim(s) is/are allowed. 6) Claim(s) is/are rejected. 7) Claim(s) is/are rejected. 7) Claim(s) are subject to restriction and/or election requirement. Application Papers 9) The specification is objected to by the Examiner. 10) The drawing(s) filed on is/are: a) accepted or b) objected to by the Examiner. Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a). Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).							
Examiner Carolyn A. Paden - The MAILING DATE of this communication appears on the cover sheet with the correspondence address Period for Reply A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION. If NO period for reply is specified above, the maximum stablety period will apply and will expire SIX (8) MONTHS from the mailing date of this communication. If NO period for reply is specified above, the maximum stablety period will apply and will expire SIX (8) MONTHS from the mailing date of this communication. Failure for reply within the set or estended period for reply will, by status, cause the application to become ABANDADE (33 U.S. €, 133). Any next received by the Office later than three months after the mailing date of this communication, even if timely filled, may reduce any seemed planter than depathment. See 97 CPR 1704(9). Status 1) □ Responsive to communication(s) filled on 18 May 2006. 2a) □ This action is FINAL. 2b) □ This action is non-final. 3) □ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11, 453 O.G. 213. Disposition of Claims 4) □ Claim(s) 1-37 is/are pending in the application. 4a) Of the above claim(s) is/are allowed. 6) □ Claim(s) is/are allowed. 6) □ Claim(s) is/are rejected. 7) □ Claim(s) is/are rejected to solve the structure of the development. Application Papers 9) □ The specification is objected to by the Examiner. 10) □ The drawing(s) filed on is/are: a) □ accepted or b □ objected to by the Examiner. Application Papers 9) □ The drawing(s) filed on is/are: a) □ accepted or b □ objected to by the Examiner. Application Papers 9) □ The drawing(s) filed on is/are: a) □ accepted or b □ objected to by the Examiner. Application Papers 9) □ The drawing(s) filed on is/are: a) □ accepted or b □ objected to by the Examiner. Application Papers 11		Application No.	Applicant(s)				
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Paper No(s)/Mail Date 6) Other:		· · · · · · · · · · · · · · · · · · ·	Sister approximately (1.10.102)				

Application/Control Number: 10/664,819

Art Unit: 1761

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 1-37 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kelly (3,897,573) as further evidenced by Shenouda (4,396,634).

Kelly discloses a fish product, such as salmon or trout, that is made by treating fish fillets with salt and a phosphate compound, coating the fish with fish binder, molding the binder coated fish and freezing it (column 2, lines 1-19, 32-38 & 62-63 and column 1, lines 65-67). Claim 1 appears to differ from Kelly in the recitation of the use of phosphate in step a.

Shenouda is relied on for evidence that phosphate and salt are both well known in the art to solubilize proteins (column 2, lines 39-54). So even though phosphate is not mentioned in Kelly, it would have been obvious to substitute salt with phosphate to modify the extent of salt in the product. The claims also appear to differ from Kelly in the recitation of the treatment time and temperature but no unobvious or unexpected difference or result is seen from the conditions of the claims and the treatment process of

Kelly. It is appreciated that surimi is not mentioned but no unobvious or unexpected difference is seen from the fish source of Kelly and those used in the claims.

Applicant argues that the amount of binder used in Kelly is different from that of the claims. No unobvious or unexpected result is seen from the 5% or more binder of Kelly and the less than 10% required in claim 1. Applicant argues the arrangement of fish portions but the arrangement of the fish portions in a particular fashion is a matter of choice with regard to individual preferences.

Applicant argues that the heat treatment of Kelly is different from that of the claims. No unobvious or unexpected result is seen from the selection of one time of temperature of heat treatment over another. It is very well known to h eat or cook fish to heat set the proteins.

The rejection of the claims over Hanson and Shenouda alone has been withdrawn in view of applicants' arguments and amendment to the claim 1.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE**

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FINAL. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Carolyn A Paden whose telephone number is (571) 272-1403. The examiner can normally be reached on Monday to Friday from 7 am to 3:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Milton Cano, can be reached on (571) 272-1398 or

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by dialing 571-272-1700. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

CAPOLYN PADEN 1761
PRIMARY EXAMINER 3-7-04